

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.28626 of 2017

ORDER:

This Writ Petition is filed seeking a Mandamus directing the respondents to pay compensation in respect of the petitioners' property bearing D.Nos.2-334/3 and 2-334/4 in Survey No.51/5B situated at Cheediga Village, Kakinada Rural Mandal, East Godavari District.

The undisputed facts are that the petitioners are the owners of the above stated property and that a notification, dated 16.09.2014, was issued proposing to acquire the buildings and vacant land for the purpose of N.H.216. The property of the petitioners got affected in the road widening, for which, after considering the objections filed with respect to the acquisition as well as the valuation report of the Consulting Engineer, who estimated the value of the buildings as Rs.21,09,200 and 12,00,000/- respectively, the Land Acquisition Officer had determined the compensation payable to petitioner No.1 as 12,96,100/- and petitioner No.2 as Rs.9.09,610/-. After considering the respective objections, an Award came to be passed on 31.02.2016.

Learned counsel for the petitioners submits that the Land Acquisition Officer has failed to take into consideration the valuation report of the Consulting Engineer.

Learned Government Pleader placed before this Court the written instructions, wherein it is stated that the Land Acquisition Officer passed an Award on 31.02.2016 determining the compensation payable to the petitioners and if they are aggrieved by the same, they shall file an application before the Arbitrator by invoking Section 3G(5) of the National Highways Act, 1956 (for short 'the Act') for higher compensation, as asserted by the learned Standing Counsel for respondent No.4 and that the writ petition itself is not maintainable as there is an effective alternative remedy available to the petitioners.

Having regard to the facts and circumstances of the case, this Court is in agreement with the above contention of learned counsel for respondent Nos.3 and 4. There being no dispute that the petitioners' property was acquired for the purpose of National Highway and such acquisition is governed by the Act, compensation is required to be determined under Act. However, the Central Government, in terms of Section 195 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (For short 'Act 30 of 2013'), had issued S.O.No.2368 (E), dated 28.08.2015, making applicable all the relevant provisions of the Act for determination of the compensation.

Though the petitioners have prayed for grant of compensation, in the written instructions placed before this Court, it is categorically asserted that as a matter of fact, the

compensation was determined in terms of Schedule I of Act 30 of 2013.

Be that as it may, if the petitioners are not satisfied with the compensation, they have a right to invoke Section 3G(5) of the Act.

Therefore, the petitioners are permitted to submit necessary application before the competent authority by invoking Section 3G(5) of the Act, and as the said provision stipulates a particular time, considering the fact that the petitioners have moved this Court under a mistaken impression, in the interests of justice, the competent authority is directed to entertain the application of the petitioners and determine the compensation, in accordance with law, within period of 30 days from the date of receipt thereof.

With the above, the writ petition is disposed of.

Miscellaneous Petitions, if any pending shall stand disposed of. There shall be no order as to costs.

CHALLA KODANDA RAM, J

Dt:02.05.2018

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